**THE HON'BLE SRI JUSTICE K.C.BHANU**

**WRIT PETITION NO.18937 OF 2003**

**O R D E R:**

This writ petition is filed in the nature of Certiorari calling for the records relating to and connected with letter No.1222/AH.II (3) /2002/2004 dated 30.01.2003 of the first respondent and quash or set aside the same by holding it as arbitrary, illegal, improper and unsustainable b) declare that the petitioners herein are entitled for application of Revised Pay Scales of 1999 and on that basis, direct the respondents to extend the fixation of revised pay scales with all consequential benefits that flow from out of such a Revision of Pay Scales.

It is the case of petitioners that the third respondent-Andhra Pradesh State Meat & Poultry Development Corporation Limited (subsequently renamed as A.P. Meat Development Corporation) which came into existence in the year 1977 is a State owned Corporation and the State Government has control over the affairs of the Corporation. The main object of the Corporation is to develop Meat & Poultry Industry in the State so as to help small and marginal farmers. The third respondent Corporation earned huge profits upto 1984. There after, when private entrepreneurs entered into the market, there was a drastic downfall in the market activities of the third respondent Corporation. With regard to the viability of Public Sector Undertakings, the Government of Andhra Pradesh constituted Subrahmanyam Committee. To study the recommendations of the said Committee, a Cabinet Sub-Committee was also constituted by the Government vide G.O.Ms.No.491 GAD (Ar.&T.I) dated 19.11.1998. The recommendations made by the Sub-Committee were accepted by the Government. Basing on the recommendations made by the Sub-Committee, the entire poultry activity of the Corporation was wound up with

effect from 31.12.1999. In pursuance of the introduction of voluntary retirement scheme by the State Government, the employees of the third respondent Corporation were discharged from their services. Thereafter, the Government of A.P. restructured A.P.State Meat & Poultry Development Corporation Limited and renamed it as A.P.Meat Development Corporation Limited with effect from 02.03.2000 and identified a skeleton staff consisting of eight employees (the petitioners herein) to work in the restructured Corporation. Vide G.O.Ms.No.941, Goods & Agriculture (Dairy-II) Department, dated 29.11.1989 the State Government accorded administrative sanction for establishment of modern abattoir at Chengicherla Village, Hyderabad and entrusted the job to the A.P. State Meat & Poultry Development Corporation Limited and on completion of abattoir, the existing slaughter houses of Municipal Corporation of Hyderabad shall be closed down and their activities shall be shifted to Modern Abattoir at Chengicherla. There after, the Government issued G.O.Ms.No.24 PE (III) Department, dated 19.05.2001 and issued certain guidelines for the implementation of revised pay scales of 1999 to the employees of State Level Public Enterprises (herein after called as SLPE) on par with the Government employees, subject to certain conditions. Basing on the conditions stipulated in the said G.O., the second respondent issued orders permitting 23 SLPEs to implement the revised pay scales of 1999 though some of them are not totally fulfilling the above said conditions. One of the conditions stipulated therein was that the extension of revised pay scales of 1999 shall not apply to the employees of 13 SLPEs shown in Annexure-II that are making losses or closed, merged or would up. It was also stated that though the third respondent-Andhra Pradesh Meat Development Corporation has fulfilled all the required prerequisites stipulated in G.O.Ms.No.24, dated 19.05.2001 for implementing 1999 revised pay scales, the second respondent erroneously included it in Annexure-II as sick industry. It was also stated that though Nizam Sugars Limited was included in Anexure-II at Serial No.13 and declared as sick industry, the employees of it were

granted the revised pay scales of 1999 by making an amendment to G.O.Ms.No.24, dated 19.05.2001, whereas in the case of petitioners who are presently working in the third respondent Corporation are denied the benefit of revision of pay scales of 1999 without showing any valid reasons. On a representation made by the petitioners dated 06.06.2001 before the third respondent Corporation, which was forwarded to the Government, the first respondent passed orders dated 30.01.2003 rejecting the proposals submitted by the third respondent for extension of revised pay scales of 1999, without giving any reasons. Aggrieved of the same, this writ petition is filed.

In the counter affidavit filed by first and second respondents it was stated that in the absence of violation of fundamental rights or constitutional rights of the petitioners and in the absence of violation of any statutory provision or rule, the petitioners are not entitled to invoke extraordinary jurisdiction of this court. The third respondent Corporation, which was incorporated in the year 1977 with transfer of all poultry marketing centers and poultry farms along with the personnel working in the Department of Animal Husbandry, Government of Andhra Pradesh, was promoted with the objective of developing poultry farm/industry and also slaughter houses in the State. The share capital of the Corporation, which is being held by the Government of A.P., and also the Government of India is in the ratio of 79:21 respectively. Since beginning the Corporation was incurring losses, it reported nominal profits intermittently. The corporation was continuously taking plan as well as non-plan aid from the Government and never declared any dividend. The accumulated loss of the Corporation as on 31.3.1995 amounted to Rs.265.34 lakhs. The Government of India changed its industrial policy in the second half of 1991 and initiated a policy of liberalization and globalisation of the industrial sector. These policy changes had a profound impact on the public enterprises both in the Central Sector as well as in the State Sector. Keeping in view the changed perspectives of public enterprises, for the promotion of industry and economic development in the

State of Andhra Pradesh, the Government of Andhra Pradesh decided to review the performance of State Level Public Enterprises, their relevance and utility to the general public so that necessary and corrective measures could be taken to improve and promote public interest over State Level Public Enterprises. To examine the above issues, the State Government constituted a Committee in the year 1995 with Sri K.Subramanyam, IAS (retired) as Chairman. The Subrahmanyam Committee examined the details about the working of State Level Public Enterprises and given its recommendations in respect of 28 State Level Public Enterprises including the third respondent Corporation. After obtaining the view of the concerned administrative departments, the Government constituted a Cabinet Sub-Committee to examine in detail the recommendations of Subrahmanyam Committee. Considering the recommendations made by the Subrahmanyam Committee, the views of the Administrative Secretary and also the views of the Managing Director of the Corporation, the Cabinet Sub-Committee made certain recommendations. It is also stated in the counter that the Government vide D.O.Letter No.79933-II/92-2, dated 11.02.1999 communicated the approved recommendations to the Corporation. Basing on the recommendations, the third respondent Corporation was restructured by closing down the entire poultry wing of the Corporation, Bacon Factory at Gannavaram and the hatchery at Mamidipalli and there after the Corporation was renamed as Andhra Pradesh Meat Development Corporation Limited (APMDCL) with effect from 02.03.2000. For improving the functioning of slaughter houses in the State under the Centrally Sponsored Scheme with Central Government Grants-in-aid under the restructured third respondent Corporation, the Government further ordered the meat activity to continue in the establishment of Modern Abattoir & Consultancy Services. Under restructure programme, the third respondent Corporation introduced Voluntary Retirement Scheme (V.R.S) and discharged 387 employees under the said scheme and only nine employees of it are working in the restructured Corporation. The Government vide G.O.Ms.No.941 Food & Agriculture

(Dairy-II) Department, dated 29.11.1989 entrusted the job of establishing Modern Abattoir at Chengicherla Village, Ranga Reddy District to the third respondent and ordered that on completion of the Abattoir Project, the existing slaughter houses of Municipal Corporation of Hyderabad shall be closed down and their activities shall be shifted to the Modern Abattoir at Chengicherla. The said Government Order also envisaged that the Modern Abattoir should be transferred to Municipal Corporation of Hyderabad at an appropriate time. The State Government has been issuing guidelines for implementation of Revised Pay Scales to the employees of State Level Public Enterprises on par with the Government employees from time to time stipulating certain conditions. The State Government through G.O.Ms.No.24, Public Enterprises (III) Department, dated 19.05.2001 issued guidelines for implementation of Revised Pay Scales of 1999 to the employees of State Level Public Enterprises on par with the Government employees subject to certain conditions mentioned therein and by the said G.O., the Government permitted 23 State Level Public Enterprises to implement the revised pay scales of 1999, subject to certain conditions. One of the conditions stipulated therein was that the extension of Revised Pay Scales of 1999 should not apply to the employees of 13 State Level Public Enterprises including the third respondent Corporation. It was also stated in the said G.O. that there would not be any linkage between the remuneration of Government employees and the employees of State Level Public Enterprises. Considering the poor financial position of the third respondent Corporation, the Government has taken a policy decision that the extension of Revised Pay Scales of 1999 shall not apply to the employees of the third respondent corporation and accordingly, included the name of the third respondent Corporation in the said G.O. It was also stipulated in the said G.O. that the implementation of Revised Pay Scales of 1999 to the employees of State Level Public Enterprises on par with the Government employees shall be made subject to the condition that the financial commitment to extend Revised Pay Scales of 1999 to the concerned State Level

Public Enterprises shall be met by the respective State Level Public Enterprises without any budgetary support from the Government. It was also further stated that in the case of Nizam Sugars Limited, the wage revision was made to all workmen of Nizam Sugars Limited, which comprised 94% of its total strength. As per the recommendations of Bipartite Committee on Wage Revision and non-revision of pay scales of officers of Nizam Sugars Limited, it was creating anomaly in the pay structure inasmuch as its workmen are drawing more pay than some of the officers of Nizam Sugars limited. Hence, the Government has taken a decision to implement the revised pay scales of 1999 to the officers of Nizam Sugars Limited and thereafter, issued a fresh order in G.O.MS.No.1, Public Enterprises (III) Department, dated 03.01.2002 by making necessary amendment to G.O.Ms.No.24, dated 19.05.2001. As Nizam Sugars Limited and the third respondent Corporation are not similarly situated, the revised pay scales of 1999 do not apply to the third respondent Corporation. In a writ petition filed by the employees of Andhra Pradesh Electronic Development Corporation Limited (PEDC) in W.P.No.2367 of 2002 challenging G.O.Ms.NO.24, dated 19.05.2001, this Court by order dated 29.01.2004 held that there is rational differentia between the second respondent Corporation and Nizam Sugars Limited, which justify the classification between the employees of Nizam Sugars Limited and the second respondent Corporation for the purpose of extending the benefits of Revised Pay Scales of 1999 and thereby dismissed the writ petition. It was also further stated in the counter that as the third respondent Corporation has not fulfilled the conditions stipulated in G.O.Ms.No.24, dated 19.05.2001, the Government has rightly rejected the proposals submitted by the third respondent Corporation for the extension of Revised Pay Scales of 1999 to the Corporation. Hence, there is no illegality on the part of the Government.

The third respondent filed counter stating that vide G.O.Ms.No.193 G.A.

(Pol.C) Department, dated 12.05.1995, the A.P.Meat & Poultry Development Corporation Limited was placed under the programme of 'restructure'. Subsequent to that, the Government vide D.O.Letter dated 11.02.1999 communicated several recommendations which were approved by the State Government with regard to the restructure of the Corporation and the said recommendations read as follows:

i. *The Poultry wing of the Corporation shall be closed down;*

ii. *The Bacon factory shall be privatized;*

iii. *Hatchery activity also need not continue with the Corporation;*

iv. *Meat activity may be continued confining to the establishment of Modern Abattoir and consultancy services for improving the functioning of slaughter houses in the State;*

v. *The Corporation will be renamed as Andhra Pradesh Meat Developmet Corporation."*

In view of the above said recommendations, the poultry activities of the Corporation were closed on 31.12.1999 by discharging its staff and workers under Voluntary Retirement Scheme. It was also stated that vide G.O.Ms.No.941, dated 29.11.1989, the existing slaughter houses of Municipal Corporation of Hyderabad should be closed and the activities should be shifted to the Modern Abattoir. As the third respondent Corporation was included in the list of State Level Public Enterprises in Annexure-II of G.O.MS.NO.24, dated 19.05.2001 the revised pay scales of 1999 do not apply to its employees. As the third respondent Corporation informed the Government that if revised pay scales of 1999 are implemented to its employees, the Corporation itself has to bear the additional expenditure of Rs.3.00 lakhs per annum and the said amount should be met from the resources of the Corporation that are being utilized for payment of salaries to its staff.

The learned counsel appearing for the petitioners contended that in spite of

the fact that the third respondent Corporation is running in profits, it has not extended the pay scales of 1999 to the petitioners herein and also the other employees.

On the other hand, the learned Standing Counsel appearing for the third respondent-Corporation contended that since the Government has rejected the proposal for implementation of pay scales of 1999 to its employees, the question of granting pay scale to the petitioner does not arise. He further contended that as the Corporation is running in heavy losses, it was closed. He further contended that because of financial crises, 387 employees of the Corporation took voluntary retirement. Therefore, the question of extending the benefit of pay scales to the petitioners does not arise.

The question that arises for consideration is whether the petitioners are entitled for the pay scales of 1999 on par with the other Government employees.

The Government issued G.O.Ms.No.24, dated 19.05.2001, through which, it permitted 23 State Level Public Enterprises shown in Annexure-I and A.P.Khadi and Village Industries Board to adopt Revised Pay Scales of 1999, subject to the following conditions:

a. *The SLPEs would be eligible to implement the RPS 1999 provided the existing scales of pay are identical to those existing in the Government, i.e., the pay scales have been adopted for similar grades when the responsibilities are comparable;*

b. *The scales would be implemented only when the DA & other allowances are being paid on par with those being paid by the Government and DA merged with the Basic is on par with the Government scales and D.A. sanction was also all along as per Government formula;*

c. *While implementing the Revised Pay Scales 1999, no deviations shall be made either to increase or decrease the pay scales;*

d. *In case of those SLPEs that have already implemented IR/RPS 1999, or paid any advance in*

*anticipation of implementation of PRC'99, the excess payments if any made shall be adjusted in their future payment;*

e. *All the SLPEs to whom the Revised Pay Scales 1999 are extended shall refer the G.O. (P) NO.114, Fin & PLG. (F.W.PC.I) Dept., dated 11.08.1989, for calculating the emoluments, as and when applicable;*

f. *The financial commitment to extend Revised Pay Scales 1999 to those SLPEs will be met by the respective SLPEs, without any budgetary support from the Government."*

A perusal of Clause 'F' shows that the financial commitment to extend Revised Pay Scales 1999 to these SLPEs will be met by the respective SLPEs, without any budgetary support from the Government. As per 'Clause-5' the extension of Revised Pay Scales, 1999 shall not apply to the employees of 13 SLPEs, shown in Annexure-II that are making losses, or closed, merged or wound up. The third respondent corporation is one among such public enterprises shown in Annexure-II. So far, no specific challenge has been made with regard to G.O.Ms.No.24, dated 19.05.2001, which specifically provides for not applying the pay scales of 1999. G.O.Ms.No.24 specifically prohibits for application of Pay Scales of 1999 to the third respondent Corporation. Therefore, the Government rejected the proposals and since no specific challenge has been made with regard to the discrimination or classification with regard to G.O.Ms.No.24, dated 19.05.2001. Hence, I see no merits in the writ petition.

The writ petition is, therefore, dismissed as devoid of merits. No costs.

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K.C.BHANU J.,

Dt. 26.07.2005

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